

# ***EXHIBIT 12***

***UNREDACTED VERSION  
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# ***EXHIBIT 12***

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

--oOo--

WAYMO LLC,

Plaintiff,

Case

vs.

No. 3:17-cv-00939-WHA

UBER TECHNOLOGIES, INC.;

OTTOMOTTO LLC; OTTO TRUCKING LLC,

Defendants.

\_\_\_\_\_/

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED 30(b)(6) DEPOSITION OF GARY BROWN

VOLUME II

WEDNESDAY, SEPTEMBER 6, 2017

Reported by:

Anrae Wimberley

CSR No. 7778

Job No. 2693569

Pages 306 - 534

Page 306

1	this deposition.	10:18:54
2	Is that clear?	10:18:55
3	THE WITNESS: Yes.	10:18:56
4	MR. BAKER: Okay.	10:18:57
5	THE WITNESS: Jack provided details, like	10:19:03
6	Subversion retention, how it was 52 weeks and was	10:19:10
7	currently indefinite. I think that was -- that's the	10:19:22
8	only thing that comes to mind that I had asked him	10:19:24
9	about in preparation. There may have been others.	10:19:28
10	And to that I would reference my previous deposition	10:19:34
11	where my response would be discussions with Jack	10:19:37
12	Brown.	10:19:39
13	BY MS. GOODMAN:	10:19:39
14	Q. So if I understand your testimony, you're	10:19:42
15	saying that Mr. Brown told you the SVN system logs are	10:19:48
16	retained for 52 weeks; correct?	10:19:51
17	A. They were.	10:19:52
18	Q. And for what period of time were the SVN logs	10:19:56
19	retained for 52 weeks?	10:19:59
20	A. That part was unclear. And then I was shown	10:20:03
21	an e-mail from Jeff Nardinelli that specified specific	10:20:09
22	dates and retention lengths based on those dates.	10:20:13
23	Q. And do you recall what that e-mail said, as	10:20:16
24	to retention dates?	10:20:20
25	A. I can give a pretty definite ballpark right	10:20:25

1 now. If you have that on hand, I will -- up to you. 10:20:31

2 Q. What's the pretty decent ballpark that you 10:20:34

3 can give right now? 10:20:36

4 A. I believe the initial pull of Anthony 10:20:39

5 Levandowski [REDACTED] was done 10:20:44

6 for a period of September 19th, 2015 through September 10:20:51

7 19th, 2016. I believe that's the date. And then the 10:20:56

8 second date that comes to mind is there was an 10:20:59

9 additional request, March 27th, I think -- and, again, 10:21:06

10 I defer to the e-mail that I was shown in the last 10:21:08

11 deposition, if I'm mistaken -- at which point 10:21:13

12 indefinite retention was attempted. But due to a 10:21:17

13 glitch that was discovered sometime in the middle of 10:21:20

14 May, there is an outage for a period of March 27th, 10:21:28

15 2017 through, I think, a date in May 2017. But, 10:21:32

16 again, I defer to the e-mail. 10:21:34

17 Q. So you said that the log data was pulled for 10:21:41

18 Anthony Levandowski [REDACTED] is that 10:21:44

19 correct? 10:21:44

20 A. That is correct. 10:21:45

21 Q. And the log data showed activity -- the log 10:21:50

22 data pulled [REDACTED] showed activity dated 10:21:54

23 between September 19, 2015 and September 19, 2016; 10:21:59

24 correct? 10:21:59

25 A. I believe that is correct. 10:22:00

1	MR. BAKER: Objection to form.	13:33:57
2	THE WITNESS: I don't recall.	13:33:59
3	BY MS. GOODMAN:	13:33:59
4	Q. Did anybody ever tell you that the contents	13:34:05
5	of the SVN repository were second-class citizens?	13:34:09
6	MR. BAKER: Objection to form.	13:34:10
7	THE WITNESS: I don't think I've ever heard that.	13:34:32
8	BY MS. GOODMAN:	13:34:32
9	Q. Did anybody ever tell you that engineers	13:34:35
10	routinely check out -- download the entire content of	13:34:39
11	the SVN repository in their normal course of work?	13:34:43
12	MR. BAKER: Objection to form.	13:34:51
13	THE WITNESS: I don't think so. And the only	13:34:53
14	thing that comes to mind is I feel like -- I think in	13:35:00
15	the last deposition, it was mentioned on the page that	13:35:05
16	I was shown for the Chauffeur Subversion instructions	13:35:11
17	that if those instructions were followed, it would	13:35:14
18	check out the entire repository. But I don't think I	13:35:22
19	heard that outside of these depositions.	13:35:26
20	BY MS. GOODMAN:	13:35:26
21	Q. And I think you said at your last deposition	13:35:37
22	that if you had known that at the time of reaching	13:35:41
23	your conclusions about Anthony's download, it wouldn't	13:35:46
24	have changed your conclusion that it was suspicious	13:35:49
25	behavior; is that right?	13:35:51

1 prior deposition. 18:24:09

2 THE WITNESS: I may have a privilege question. Or 18:24:20

3 is all this -- 18:24:22

4 MR. BAKER: We can talk about it. 18:24:25

5 MS. GOODMAN: Going off the record. 18:24:26

6 THE VIDEOGRAPHER: Going off the record. The time 18:24:27

7 is 6:24 p.m. 18:24:29

8 (Recess taken.) 18:26:22

9 THE VIDEOGRAPHER: Back on the record. The time 18:26:25

10 is 6:26 p.m. 18:26:26

11 BY MS. GOODMAN: 18:26:26

12 Q. Mr. Brown, can you please describe for me 18:26:29

13 everything you have done since your prior deposition 18:26:34

14 to analyze Mr. Levandowski's computer usage behavior. 18:26:41

15 A. There was a -- I think a production request 18:26:49

16 for -- recently for Drive downloads for, I think, 39 18:26:54

17 users or so. And I included Anthony Levandowski in 18:27:01

18 that because, as we discussed in the previous 18:27:09

19 deposition, there was an additional identifier that we 18:27:14

20 didn't take into account for the originals. 18:27:18

21 That is the word "secureSC" in the URL. So 18:27:24

22 including that in this pass is what I did for his 18:27:33

23 Drive download activity. And then I searched through 18:27:39

24 the Bit9 logs that had been produced for Workstations 18:27:45

25 beginning with "anthony1" and could find no presence 18:27:53

1 searching [REDACTED] for the term "anthony1," which I 19:29:09  
2 believe is what Aaron did here, and no MacBook was 19:29:13  
3 returned. 19:29:13  
4 And also common instances where things show 19:29:19  
5 up as being used by, but not owned by, could be 19:29:23  
6 indicative of shared machines. And MacBooks are not 19:29:26  
7 typically -- I can't think of any instances where 19:29:29  
8 MacBooks are shared machines. It's typically things 19:29:33  
9 like lab machines that will be shared. 19:29:41  
10 BY MS. GOODMAN: 19:29:41  
11 Q. So are you a thousand percent sure that 19:29:44  
12 Mr. Levandowski was not issued a MacBook by Google? 19:29:48  
13 A. Yes. 19:29:48  
14 Q. Looking at 2237, Mr. Rizk is writing to you 19:29:57  
15 on February 6th. "I don't think we've examined it, 19:30:06  
16 but we" -- sorry. Strike that. 19:30:09  
17 He's writing to you, "Can you check on 19:30:12  
18 whether Anthony's Workstation was taken out of 19:30:15  
19 circulation?" 19:30:16  
20 Do you see that? 19:30:17  
21 A. Yes. 19:30:17  
22 Q. And you recall that Mr. Levandowski's 19:30:20  
23 Workstation was reissued to somebody -- 19:30:24  
24 A. Yes. 19:30:24  
25 Q. -- in February 2016. 19:30:27

1	A.	(Witness nods head affirmatively.)	19:30:27
2	Q.	That's "yes"?	19:30:29
3	A.	Yes. Sorry.	19:30:31
4	Q.	Has anything been collected from that	19:30:34
5		Workstation?	19:30:35
6	A.	What do you mean?	19:30:39
7	Q.	Has any examination of that Workstation been	19:30:46
8		done with respect to Mr. Levandowski?	19:30:49
9	A.	Not that I know of. Because it would have	19:30:53
10		been -- as I say here, it was cleaned and reimaged by	19:30:59
11		the 18th of February 2016. And I believe it was	19:31:02
12		redeployed sometime in the following week. So not	19:31:08
13		only would the contents of it be gone, but it is now	19:31:12
14		in active use -- was in active use by another	19:31:14
15		employee.	19:31:15
16	Q.	And nobody asked you to go to that active	19:31:17
17		employee and take the machine back; is that right?	19:31:21
18	A.	It wouldn't have made sense.	19:31:24
19	Q.	But nobody asked you to do that?	19:31:27
20	A.	No.	19:31:27
21	Q.	So nothing was collected from that machine as	19:31:31
22		part of an investigation into Mr. Levandowski?	19:31:34
23	A.	That is correct because it had been reimaged	19:31:37
24		and redeployed.	19:31:40
25	Q.	You can put that one aside.	19:31:46



1       this e-mail about the SVN log data and retention of       21:45:20  
2       information is accurate information?       21:45:24  
3           A.     Yes.       21:45:24  
4           Q.     Did you do any investigation to determine       21:45:28  
5       whether, in fact, the statements in here were accurate   21:45:31  
6       or not?       21:45:32  
7           A.     As I've said multiple times before, I do not   21:45:36  
8       have access to the Subversion server. I did none of   21:45:42  
9       the pulls in question. So it would not be reasonably   21:45:47  
10      feasible for me to investigate and confirm the       21:45:55  
11      veracity of this e-mail, but I trust our lawyers.       21:46:01  
12           Q.     Did you ask Mr. Brown about the accuracy of   21:46:05  
13      the statements in this e-mail?       21:46:07  
14           MR. BAKER: He is Mr. Brown.       21:46:09  
15      BY MR. CHATTERJEE:       21:46:09  
16           Q.     I'm sorry. Jack Brown.       21:46:10  
17                   Did you ask Mr. Jack Brown about the accuracy   21:46:14  
18      of the statements in this e-mail?       21:46:15  
19           A.     I have not spoken to Jack Brown since this   21:46:18  
20      e-mail has been made available to me.       21:46:20  
21           Q.     Did you talk to Mr. Zbrozek about the       21:46:22  
22      accuracy of the statements in this e-mail?       21:46:25  
23           A.     I have not talked to Mr. Zbrozek since before   21:46:27  
24      this e-mail was made available to me.       21:46:29  
25           MR. CHATTERJEE: Thank you.       21:46:29

1 FEDERAL CERTIFICATE OF DEPOSITION OFFICER  
2 I, ANRAE WIMBERLEY, CSR NO. 7778, do hereby  
declare:

3 That, prior to being examined, the witness named  
4 in the foregoing deposition was by me duly sworn  
pursuant to Section 30(f)(1) of the Federal Rules of  
Civil Procedure and the deposition is a true record of  
5 the testimony given by the witness;

6 That said deposition was taken down by me in  
shorthand at the time and place therein named and  
thereafter reduced to text under my direction;

7 ----- That the witness was requested to  
8 review the transcript and make any changes to the  
transcript as a result of that review pursuant to  
9 Section 30(e) of the Federal Rules of Civil Procedure;

10 ----- No changes have been provided by the  
witness during the period allowed;

11 ----- The changes made by the witness are  
12 appended to the transcript;

13 --X--- No request was made that the transcript  
be reviewed pursuant to Section 30(e) of the Federal  
14 Rules of Civil Procedure.

15 I further declare that I have no interest in the  
event of the action.

16 I declare under penalty of perjury under the laws  
17 of the United States of America that the foregoing is  
true and correct.

18 WITNESS my hand this 7th day of September, 2017.  
19  
20  
21

22   
23  
24

25 ANRAE WIMBERLEY, CSR NO. 7778